

---

---

# Pima County Superior Court Jury Trials

---

---

THE TRIAL REPORTER of Southern Arizona

November 30, 1999

\*\*\*\*\*

11/19/99 - Judge CHRISTOPHER C. BROWNING - CV 329406 - HAMZA (John A. Gravina, a sole practitioner) v TWEET (David L. Curl of William B. Blaser & Associates) - PERSONAL INJURY - INTERSECTION - CONTROLLED - TRAFFIC SIGNAL. Pntf husband, a physician, operating vehicle with passengers, Pntf wife, Pntf sons Bradley, Bryant, and Adam, plus Pntf daughter, alleged Dfnt, approaching at a right angle, westbound on Congress Street, ran red light and caused collision with Pntfs, who were southbound on the frontage road, at I-10 and Congress. Pntfs called an eyewitness, who testified Dfnt ran the red light. On cross, witness admitted his memory could have faded, and he was on the east side of the freeway at the time of the accident. Pntfs also called Robert Hunt, a traffic engineer with the City of Tucson, who testified there was no way to tell which light was green, at the time of the accident. Mr. Hunt also testified the intersections were operated separately and independently. On cross, Mr. Hunt admitted intersections are designed to create a smooth flow of traffic and lights are designed to stay green until one of them is tripped by traffic. Dfnt, male, denied liability, arguing the light was green when he entered the intersection. Pntf wife alleged she sustained a herniated lumbar disk, with an annular tear of the disk, which resulted in low back pain, plus a cervical strain, with residual headaches. Pntf wife's low back pain did not manifest itself until much later. Pntf wife alleges she has pain radiating into both legs and uses a walker and a cane, as necessary, to ambulate. Pntf wife receives prescriptions for Methadone, Relafen, Welbutrin, Neurontin, Elavil, Vicodin, as well as Roxicodon for pain. Pntf wife alleged she was forced to drop out of school and abandon her lifelong dream of becoming a doctor. Additionally, Pntf

wife is no longer able to teach part-time and lost \$3,000 per year in earnings. Plntf wife called Nancy E. H. Cross, M.D., an anesthesiologist, specializing in pain control, who testified Plntf wife would benefit from low back surgery, at a cost of \$15,000 to \$20,000 with an eighty percent success rate. On cross, Dr. Cross was unable to give an opinion with any degree of medical certainty, as to whether Plntf wife's injuries were causally related to the accident. On cross, Dr. Cross also admitted she was unaware of Plntf wife's prior back problems. Plntf wife also called B. Robert Crago, Ph.D., a psychologist, who testified he is treating Plntf wife for pain control with biofeedback techniques. It was Dr. Crago's opinion Plntf wife will require \$1,000 to \$2,000 in future treatment. Additionally, Dr. Crago testified he treated Plntf son Bradley for anger management, related to his post-traumatic stress disorder. Plntf wife also called Susan B. Fleming, M.D., specializing in pain control, who testified she treated Plntf wife with injections, therapy, adjustments, and the MED-X machine and although Plntf wife showed some improvement, her condition was permanent and she stopped coming in for treatment. Plntf wife also called Rubin Bressler, M.D., an internist, who was of the opinion the annular tear could have occurred from trauma or other causes, although trauma was more probable. It was Dr. Bressler's opinion Plntf wife was disabled and could not work. Further, it was Dr. Bressler's opinion on cross that Plntf wife's prior back problems, including a 1992 accident, contributed to her current condition. Additionally, it was Dr. Bressler's opinion that an annular tear could not come from any day to day activity or years of steroids for asthma. Plntf wife also called Michael E. Verant, D.C., who testified he treated Plntf wife and Plntf sons Bradley and Bryant. Plntf husband testified he was forced to give up a stipend of \$1,000 per month, from the U.S. Air Force, when he switched from surgery residency to anesthesiology residency at

University of Arizona, so he could devote more time to taking care of his wife and family. Plntf husband made claim for loss of consortium. Dfnt called Preston H. Long, D.C., who was of the opinion Plntf wife's care was unreasonable and/or unrelated. It was Dr. Long's opinion that any care after six weeks was counterproductive. Dfnt also called John S. LaWall, M.D., a neurologist, who testified Plntf wife sustained a strain, at most, which should have resolved. It was Dr. Long's opinion Plntf wife had no objective findings. It was Dr. Long's opinion Plntf wife's pain is not caused by a herniated disk, as evidenced by her complaint of no pain relief. Dfnt also used videotape of Plntf wife, made by investigator Andrew Sowards. Plntf wife's Prayer: Just and reasonable compensatory damages; \$33,000 past medical expenses; \$15,000 future medical expenses; \$9,000 past lost wages; plus \$3,000 per year future lost wages. Plntf son Bradley's Prayer: Just and reasonable compensatory damages; plus \$7,500 medical expenses. Plntf son Bryant's Prayer: Just and reasonable compensatory damages; plus \$2,400 medical expenses. Plntf son Adam's Prayer: Just and reasonable compensatory damages; plus \$400 medical expenses. Plntf daughter's Prayer: Just and reasonable compensatory damages. Plntf husband made claim for loss of consortium; and \$1,000 lost income. Plntfs made a pretrial demand of \$100,000 for Plntf wife; \$25,000 for Plntf children - Dfnt offered \$35,000 to Plntf wife, \$15,000 to Plntf children - Dfnt made a \$25,000 offer of judgment (P & D). (Carrier: State Farm Insurance.) During trial, Plntfs made a demand of \$85,000 for Plntf wife; \$25,000 for Plntf husband; \$50,000 for Plntf son Bradley; \$25,000 for Plntf son Bryant; \$12,500 for Plntf son Adam; and \$12,500 for Plntf daughter, Five day trial. Jury out one-plus hours. FOUND FOR DFNT. UNANIMOUSLY.

\*\*\*\*\*